2021 IRS Compliance Program and Priorities for Employee Plans



The Tax Exempt and Government Entities (TE/GE) Fiscal Year 2021 Program Letter PDF lists IRS priorities and how

those align with the IRS Strategic Goals.

In fiscal year 2021, the IRS will continue to pursue its compliance program described in its FY 2020 Program Letter PDF, and use its webpage to share information about other compliance program initiatives at the end of each quarter during the fiscal year. The IRS will also share its findings from recently completed compliance program initiatives.

The goal of the IRS is to protect the public interest by applying the tax law with integrity and fairness to all. The IRS continues to move toward issue-based examinations and a compliance program that focuses on high risk issues using one or multiple treatment streams. A treatment stream is a single or a combination of compliance actions that the IRS will implement to achieve an initiative's goal. The intention of the IRS is to respond with the right treatment stream to maintain high compliance across the TE/GE filing population.

The compliance program involves a thorough analysis of data to support the identification and evaluation of a compliance issue, a deliberate consideration of potential treatment streams, decisions about the resources to be deployed, identification of training, and tools needed, as well as a robust feedback mechanism to ensure all elements of an initiative are continuously improved. The IRS compliance program consists of six components that work together to promote tax law compliance by tax-exempt and government entities.

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2021 Compliance Strategies

Below are employee plans' strategies approved by the TE/GE Compliance Governance Board to identify, prioritize and allocate resources within the TE/GE filing population, primarily through the examination treatment stream.

Employee Plans: Small Exempt Organizations that Sponsor Retirement Plans

The focus of this strategy is to review retirement plans of small exempt organizations to determine whether the plan investments are properly administered, whether there are any party-in-interest transactions in the plan trust and whether any participant loans violate Internal Revenue Code (IRC) Section 72(p). Improper transactions between the plan and its participants can result in prohibited transactions under IRC Section 4975, deeming distributions as taxable income, or result in IRC Section 72(t) early distribution penalties. The treatment stream for this strategy is examinations by the IRS.

Employee Plans: Worker Classification

The focus of this strategy are retirement plans of employers that were determined to have misclassified employees as independent contractors. These retirement plans will be reviewed to determine if coverage requirements of the Internal Revenue Code are satisfied. The treatment stream for this strategy is examinations by the IRS.

Employee Plans: Required Minimum Distributions in Large Defined Benefit Plans

This strategy is to ensure retirement plan sponsors comply with Internal Revenue Code (IRC) Section 401(a)(9) to begin distribution of benefits by April 1 following the calendar year an employee turns 70 ½. Failure to make these distributions could cause plan disqualification as well as a 50% excise tax on amounts not distributed. The treatment stream for this strategy is examinations by the IRS.

Employee Plans: Participant Loans

This strategy is to ensure that participant loans comply with Internal Revenue Code (IRC) Section 72(p) rules on maximum loan balances and IRC Section 72(t) re-payment rules for early distributions before age 59 ½. The IRS will verify whether participant loans of retirement plans that hold a high percentage of participant loans to total assets of the trust are being repaid timely if the loan balance remains consistent or increases for more than one year. Noncompliance may result in deemed distributions under IRC Section 72(p) and/or prohibited transaction excise taxes under IRC Section 4975. The treatment stream for this strategy is issue based examinations by the IRS.

Employee Plans: Earned Income for Self-Employed Plans

This strategy addresses businesses that file Schedule C, Profit or Loss From Business (Sole Proprietorship), and a Form 5500-series return. The IRS will examine whether these businesses with retirement plans have:

- correctly taken the self-employed deduction on the Form 1040, Individual Income Tax, Schedule 1, Additional Income and Adjustments, rather than on Schedule C,
- properly calculated the owner-employee's earned income,
- made correct allocations to plan participants, and
- complied with the nondiscrimination requirements and IRC 415 contribution limits.

The treatment stream will be examinations by the IRS.

Employee Plans: One-Participant 401(k) Plans

This focus of this strategy is to review one-participant 401(k) plans to determine if there are operational or qualification failures, income and excise tax adjustments, or plan document violations. The treatment stream for this strategy is examinations by the IRS.

Data-Driven Approaches

Data and queries based on quantitative criteria, used to identify high risk areas of noncompliance and focus on issues with the greatest impact.

The IRS will continue to pursue the initiatives listed in its FY 2020 Program Letter. PDF

Referrals, Claims and Other Casework

Referrals of alleged noncompliance from internal and external sources, and claims for refunds, credits or adjustments.

2021 Compliance Contacts

Below are employee plans' issues approved by the TE/GE Compliance Governance Board for correspondence contacts known as compliance checks addressing potential noncompliance, and educational letters to limit costs and taxpayer burden.

Employee Plans: Plan Liabilities and Unrelated Business Income

With this strategy, the IRS will determine if plan sponsors who reported plan liabilities on their Form 5500-series return are engaging in activities that result in taxable unrelated business income. Large, unusual and questionable liabilities may result from prohibited transactions, unrelated business income or failure to value assets properly. The unrelated business income tax provisions of the Internal Revenue Code ensure that exempt organizations are taxed on income earned from activities that are unrelated to the purpose for which they were granted exempt status. The treatment stream for this strategy is compliance checks.

Employee Plans: Inflated Assets

This initiative determines if plan sponsors are completing financial information on Form 5500-series returns with complete and accurate information. It will focus on plans

whose assets have increased beyond reasonable amounts from the beginning of the year to the end of the year. The treatment stream for this initiative is compliance checks.

Employee Plans: Partial Termination/Partial Vesting

This initiative identified employers whose Form 5500, Annual Returns/Reports of Employee Benefit Plan, indicates their plan has had a significant decrease in plan participants. The IRS will review these plans to determine compliance with Internal Revenue Code Section 411(d)(3) vesting requirements and accuracy of other information on their Form 5500. The treatment stream for this initiative will be compliance checks.

Determinations

Letters issued to exempt organizations on exempt status and other determinations related to exempt organizations and qualified retirement plans that meet legal and regulatory requirements.

Voluntary Compliance and Other Technical Programs

The Voluntary Correction Program (VCP) enables a plan sponsor (at any time before examination) to pay a fee and receive IRS approval for correction of plan failures. Other technical programs, including Knowledge Management, work to ensure the quality and consistency of technical positions, provide timely assistance to employees and preserve and share TE/GE's knowledge base.

Employee Plans: Voluntary Correction Program

The IRS will continue to process voluntary correction applications submitted electronically through Pay.gov under the Employee Plans Compliance Resolution Program (EPCRS) and enter into compliance statements with plan sponsors to resolve failures to comply with the plan qualification requirements, avoiding plan disqualification.

Phone:

Email:

Address:

	
	

Who We Are

Torrillo & Associates, LLC specializes in employee benefit plan audits including 401k audits, 403b audits, pension plan audits, and other retirement plan audits. We are licensed in 10 states including Pennsylvania, New Jersey, Delaware, New York and Florida. We are also able to practice in additional states that have passed firm mobility.

Recent Articles

- EPCRS Updated and New ICRS Program Established for Correcting IRA Errors

- IRS Announces Cycle 4 Adoption Deadline for Defined Contribution Pre-Approved Plans
- IRS Issues, Rev. Proc. 2026-30, Application Procedures for Letter Rulings and Nonbank Trustee Approval Letters from IRS Employee Plans
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